

**OPINION  
46-51**

April 30, 1946

CITIES—Appointive Officers—Qualifications

This is in reply to your letter of April 25 addressed to the Attorney General.

You state that, you have recently been elected mayor and that it is necessary for you to appoint a city auditor. The only capable man available is a resident of Judson who has recently opened up a real estate office in your city and who intends to move to your city some time this fall or winter. However, he is an elector and treasurer in the township in which he resides. The question you present is whether or not you may appoint him as city auditor of the city of New Salem.

Section 40-1301 of the North Dakota Revised Code of 1943 prescribes the qualifications of elective and appointive officers, and reads as follows:

“No person shall be eligible to hold an elective municipal office unless he is a qualified elector of the municipality and unless he has been a resident thereof for at least nine months preceding the election. No person shall be eligible to hold an appointive office unless he is a citizen of the United States. No person in default to the municipality shall be eligible to any office.”

Under the provisions of the statute quoted with reference to appointive officers, it would appear that the only qualifications necessary are that they are citizens of the United States and not in default to the municipality in which the appointment is made. It is our opinion, therefore, that the person you mention is eligible for appointment to the office of city auditor provided he is a citizen of the United States and is not in default in any manner to the city of New Salem.